
Costs Decision

Site visit made on 19 November 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2025

Costs application in relation to Appeal Ref: APP/K2230/W/25/3371833

Land at the rear of Flint Cottage, Northfleet Green Road, Northfleet Green, Istead Rise, Gravesend, Kent DA13 9PN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Robert Shotton for a full award of costs against Gravesend Borough Council.
 - The appeal was against the refusal of planning permission for demolition of an existing commercial building (and retention of rear wall), demolition of remnants of barn and conversion of roundel to create a 4-bedroom dwelling with associated parking, amenity space, landscaping and access.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant's case is generally that the Council misapplied paragraph 154(g) of the Framework and then was unwilling to work proactively with the appellant to resolve the issue. As such, it is claimed that the Council's behaviour resulted in the need for the appeal and so a full award of costs is sought.
4. The Council's position is that whilst it acknowledges the officer report referenced the previous version of the Framework, the harm to openness is nonetheless substantial. This, it is said, is consistent with its position in the pre-application advice and in its post decision actions where it did not consider the concerns raised by the applicant to alter its position.
5. It seems self-evident that the Council did not quote the correct Framework paragraph within the Officer Report (OR), referring to the previous 2023 version. I acknowledge that there are references in the OR to the current Framework's wording when considering openness, and the word 'substantial' is used but there is insufficient evidence to suggest that this was in the mind of the author when making their assessment of this particular proposal. Indeed, neither the OR nor the decision notice offer any attempt to quantify the level of harm to openness, merely indicating that there would be harm, which is in effect the previous test.
6. The current version of the Framework requires that for this proposal, the harm to openness must be substantial for the development to be considered inappropriate

- development in the Green Belt. This will necessarily entail a planning judgement but not one that simply identifies harm, as not all harm to openness will necessarily be substantial.
7. This final step appears to be missing from the OR. At best the OR is confused when considering the implications of paragraph 154 (g) but on balance, given that the OR does not appear to make a clear assessment that the harm to openness would be substantial, it leads me to conclude that the correct threshold was not applied.
 8. The subsequent appeal statement considers the harm to openness to be substantial but offers no assessment or consideration as to how this has been reached. It merely restates what are considered to be the harmful aspects of the scheme as set out in the OR. Substantial harm is a high bar. Without any further explanation or assessment from the Council it is difficult to reconcile their current view that the harm is substantial when that level of harm was not clearly articulated or set out in the OR.
 9. The Council's position is that its decision on the planning application and position at appeal is consistent with the pre-application advice. However, that pre-application advice does not describe the harm as substantial. This is understandable as the test in the Framework at that stage did not require there to be substantial harm for cases such as this one.
 10. It is not unreasonable for the Council to maintain its position at appeal that there would be harm to openness from the development. I too found there to be harm. However, none of this means or supports the contention that the harm identified by the Council at the application stage was considered to be substantial.
 11. Consequently, based on the information before me and my own observations, I find that the Council's rebuttal falls short of making the appellant's claim less than probable. Consequently, it is more probable than not that the outcome on the Green Belt issue would have been different had the Council applied the correct test. As such, I find that on balance, the Council's actions amount to unreasonable behaviour and the work undertaken by the appellant at appeal on this issue to have been unnecessary.
 12. However, the proposal was rejected for more than Green Belt reasons. The appellant does not seek to challenge in this claim the design reason for refusal. Similarly, the absence of a legal agreement or payment towards the SPA was a further legitimate reason for refusal when the planning application was determined. As such, I cannot be entirely confident that even if the Council had reached a different conclusion on the Green Belt issue that an appeal would have been avoided altogether.
 13. Nevertheless, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Green Belt issue and so a partial award of costs is therefore warranted.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Gravesham

Borough Council shall pay to Mr Robert Shotton, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the issue of the Green Belt; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Gravesham Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Stewart Glassar

INSPECTOR